

SENATE BILL 646

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CF 0lr2755

By: **Senators Pugh, Astle, Della, Garagiola, Glassman, Kelley, Klausmeier, Lenett, Peters, and Stone**
Introduced and read first time: February 5, 2010
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Medical Presumptions**

3 FOR the purpose of altering the occupational disease presumption under the workers'
4 compensation law as applied to certain firefighters, certain fire fighting
5 instructors, certain rescue squad members, certain advanced life support unit
6 members, and certain sworn members of the Office of the State Fire Marshal;
7 providing that certain diseases and cancers are considered occupational
8 diseases suffered in the line of duty and are compensable in a certain manner;
9 providing that a certain presumption applies only if certain circumstances are
10 met; providing for the termination of this Act; and generally relating to the
11 occupational disease presumption for certain diseases and cancers under the
12 workers' compensation law.

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 9–503
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2009 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Labor and Employment**

21 9–503.

22 (a) A paid firefighter, paid fire fighting instructor, or sworn member of the
23 Office of the State Fire Marshal employed by an airport authority, a county, a fire
24 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
25 fighting instructor, volunteer rescue squad member, or volunteer advanced life

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 support unit member who is a covered employee under § 9–234 of this title is
2 presumed to have an occupational disease that was suffered in the line of duty and is
3 compensable under this title if:

4 (1) the individual has heart disease, hypertension, or lung disease;

5 (2) the heart disease, hypertension, or lung disease results in partial
6 or total disability or death; and

7 (3) in the case of a volunteer firefighter, volunteer fire fighting
8 instructor, volunteer rescue squad member, or volunteer advanced life support unit
9 member, the individual has met a suitable standard of physical examination before
10 becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life
11 support unit member.

12 (b) (1) A paid police officer employed by an airport authority, a county,
13 the Maryland–National Capital Park and Planning Commission, a municipality, or the
14 State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this
15 subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer,
16 Prince George’s County deputy sheriff, or Prince George’s County correctional officer is
17 presumed to be suffering from an occupational disease that was suffered in the line of
18 duty and is compensable under this title if:

19 (i) the police officer, deputy sheriff, or correctional officer is
20 suffering from heart disease or hypertension; and

21 (ii) the heart disease or hypertension results in partial or total
22 disability or death.

23 (2) (i) A deputy sheriff of Baltimore City, Montgomery County
24 correctional officer, Prince George’s County deputy sheriff, or Prince George’s County
25 correctional officer is entitled to the presumption under this subsection only to the
26 extent that the individual suffers from heart disease or hypertension that is more
27 severe than the individual’s heart disease or hypertension condition existing prior to
28 the individual’s employment as a deputy sheriff of Baltimore City, Montgomery
29 County correctional officer, Prince George’s County deputy sheriff, or Prince George’s
30 County correctional officer.

31 (ii) To be eligible for the presumption under this subsection, a
32 deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
33 George’s County deputy sheriff, or Prince George’s County correctional officer, as a
34 condition of employment, shall submit to a medical examination to determine any
35 heart disease or hypertension condition existing prior to the individual’s employment
36 as a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
37 George’s County deputy sheriff, or Prince George’s County correctional officer.

38 (c) A paid firefighter, paid fire fighting instructor, or a sworn member of the
39 Office of the State Fire Marshal employed by an airport authority, a county, a fire

1 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
2 fighting instructor, volunteer rescue squad member, or volunteer advanced life
3 support unit member who is a covered employee under § 9-234 of this title is
4 presumed to be suffering from an occupational disease that was suffered in the line of
5 duty and is compensable under this title if the individual:

6 (1) has leukemia, **MULTIPLE MYELOMA, MELANOMA**, or pancreatic,
7 prostate, rectal, [or] throat, **ESOPHAGEAL, LYMPHATIC, TESTICULAR, BRAIN,**
8 **LUNG, BLADDER, KIDNEY, BREAST, LIVER, OVARIAN, CERVICAL, OR URETHRAL**
9 **cancer, OR CANCER LOCATED IN THE DIGESTIVE SYSTEM** that is caused by contact
10 with a toxic substance that the individual has encountered in the line of duty;

11 (2) has completed at least 5 years of service as a firefighter, fire
12 fighting instructor, rescue squad member, or advanced life support unit member or in
13 a combination of those jobs in the department where the individual currently is
14 employed or serves;

15 (3) is unable to perform the normal duties of a firefighter, fire fighting
16 instructor, rescue squad member, or advanced life support unit member in the
17 department where the individual currently is employed or serves because of the cancer
18 or leukemia disability; and

19 (4) in the case of a volunteer firefighter, volunteer fire fighting
20 instructor, volunteer rescue squad member, or volunteer advanced life support unit
21 member, has met a suitable standard of physical examination before becoming a
22 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
23 member.

24 **(D) A PAID OR VOLUNTEER FIREFIGHTER OR FIRE FIGHTING**
25 **INSTRUCTOR, A VOLUNTEER RESCUE SQUAD MEMBER, AN ADVANCED LIFE**
26 **SUPPORT UNIT MEMBER, OR A SWORN MEMBER OF THE OFFICE OF THE STATE**
27 **FIRE MARSHAL EMPLOYED BY AN AIRPORT AUTHORITY, A COUNTY, A FIRE**
28 **CONTROL DISTRICT, A MUNICIPALITY, OR THE STATE WHO IS A COVERED**
29 **EMPLOYEE UNDER § 9-234 OF THIS TITLE IS PRESUMED TO HAVE AN**
30 **OCCUPATIONAL DISEASE SUFFERED IN THE LINE OF DUTY AND IS**
31 **COMPENSABLE UNDER THIS TITLE IF THE INDIVIDUAL:**

32 **(1) HAS A STRAIN OF HEPATITIS GENERALLY RECOGNIZED BY THE**
33 **MEDICAL COMMUNITY, MENINGOCOCCAL MENINGITIS, OR TUBERCULOSIS**
34 **CAUSED BY AN EXPOSURE DURING THE PERFORMANCE OF DUTIES ASSOCIATED**
35 **WITH THE INDIVIDUAL'S EMPLOYMENT THAT RESULTS IN PARTIAL OR TOTAL**
36 **DISABILITY OR DEATH; AND**

37 **(2) DID NOT SUFFER FROM THIS OCCUPATIONAL DISEASE AT THE**
38 **TIME OF EMPLOYMENT OR, IN THE CASE OF A VOLUNTEER FIREFIGHTER,**
39 **VOLUNTEER FIRE FIGHTING INSTRUCTOR, VOLUNTEER RESCUE SQUAD**

1 MEMBER, OR VOLUNTEER ADVANCED LIFE SUPPORT UNIT MEMBER, HAS MET A
2 SUITABLE STANDARD OF PHYSICAL EXAMINATION THAT DEMONSTRATED THAT
3 THE INDIVIDUAL DID NOT SUFFER FROM THIS OCCUPATIONAL DISEASE BEFORE
4 BECOMING A FIREFIGHTER, A FIRE FIGHTING INSTRUCTOR, A RESCUE SQUAD
5 MEMBER, OR AN ADVANCED LIFE SUPPORT UNIT MEMBER.

6 [(d)] (E) (1) (i) A paid law enforcement employee of the Department
7 of Natural Resources who is a covered employee under § 9–207 of this title and a park
8 police officer of the Maryland–National Capital Park and Planning Commission is
9 presumed to have an occupational disease that was suffered in the line of duty and is
10 compensable under this title if the employee:

11 1. is suffering from Lyme disease; and

12 2. was not suffering from Lyme disease before
13 assignment to a position that regularly places the employee in an outdoor wooded
14 environment.

15 (ii) The presumption under this subsection for a park police
16 officer of the Maryland–National Capital Park and Planning Commission shall only
17 apply:

18 1. during the time that the park police officer is assigned
19 to a position that regularly places the park police officer in an outdoor wooded
20 environment; and

21 2. for 3 years after the last date that the park police
22 officer was assigned by the Maryland–National Capital Park and Planning
23 Commission to a position that regularly placed the officer in an outdoor wooded
24 environment.

25 (2) (i) An employee of the Maryland–National Capital Park and
26 Planning Commission other than a park police officer is presumed to have an
27 occupational disease that was suffered in the line of duty and is compensable under
28 this title if the employee:

29 1. is suffering from Lyme disease; and

30 2. was not suffering from Lyme disease before
31 assignment to a position that regularly places the employee in an outdoor wooded
32 environment.

33 (ii) The presumption under this paragraph shall apply only if:

34 1. for the 12–month period before the filing of the claim
35 for workers’ compensation under this section, the employee:

1 A. has not been employed by the Maryland–National
2 Capital Park and Planning Commission as a seasonal or intermittent employee; and

3 B. has been employed by the Maryland–National Capital
4 Park and Planning Commission on a full–time basis;

5 2. the employee’s assignment to a position that regularly
6 places the employee in an outdoor wooded environment lasted for at least 1 year; and

7 3. the employee files the claim for workers’
8 compensation on or before the third anniversary of the last date that the employee was
9 assigned to a position that regularly placed the employee in an outdoor wooded
10 environment.

11 **[(e)] (F)** (1) Except as provided in paragraph (2) of this subsection, any
12 paid firefighter, paid fire fighting instructor, sworn member of the Office of the State
13 Fire Marshal, paid police officer, paid law enforcement employee of the Department of
14 Natural Resources, a park police officer or employee of the Maryland–National Capital
15 Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff
16 of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince
17 George’s County, or Prince George’s County correctional officer who is eligible for
18 benefits under subsection (a), (b), (c), or **[(d)] (E)** of this section or the dependents of
19 those individuals shall receive the benefits in addition to any benefits that the
20 individual or the dependents of the individual are entitled to receive under the
21 retirement system in which the individual was a participant at the time of the claim.

22 (2) The benefits received under this title shall be adjusted so that the
23 weekly total of those benefits and retirement benefits does not exceed the weekly
24 salary that was paid to the paid law enforcement employee of the Department of
25 Natural Resources, a park police officer or employee of the Maryland–National Capital
26 Park and Planning Commission, firefighter, fire fighting instructor, sworn member of
27 the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George’s
28 County or Montgomery County correctional officer.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2010. It shall remain effective for a period of 5 years and, at the end of June 30,
31 2015, with no further action required by the General Assembly, this Act shall be
32 abrogated and of no further force and effect.